

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Revocation of the Mortgage
3 Broker License of:

4 **D&R FINANCIAL GROUP, LLC AND**
5 **MICHAEL D. ROBSON, MANAGING**
6 **MEMBER**

7 7201 E. Camelback Road, Suite 375
8 Scottsdale, AZ 85251

9 Respondents.

No. 08F-BD063-BNK

**NOTICE OF HEARING AND
COMPLAINT**



10 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138,
11 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative
12 Hearings, an independent agency, and is scheduled for July 21 and 22, 2008, at 9:00 a.m., at the
13 Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-
14 9826 (the "Hearing").

15 The purpose of the Hearing is to determine whether grounds exist to suspend or revoke
16 Respondents' mortgage broker license; to order any other remedy necessary or proper for the
17 enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S.
18 §§ 6-123 and 6-131; and to impose a civil money penalty pursuant to A.R.S. § 6-132.

19 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
20 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
21 or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to
22 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
23 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
24 of Administrative Hearings has designated Thomas Shedden, at the address and phone number listed
25 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative
26 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law

1 Judge is specifically prohibited from entering.

2 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
3 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
4 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
5 Administrative Hearings.

6 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
7 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
8 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
9 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
10 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.
11 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

12 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
13 made by a court reporter or by electronic means. Any party that requests a transcript of the
14 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

15 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
16 Attorney General Erin O. Gallagher, (602) 542-8935, 1275 West Washington, Phoenix, Arizona
17 85007.

18 **NOTICE OF APPLICABLE RULES**

19 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
20 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
21 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
22 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
23 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
24 R2-19-122. A copy of these rules is enclosed.

25 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**
26 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents'

1 position or defense and shall specifically admit or deny each of the assertions contained in this
2 Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain
3 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall
4 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.
5 When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an
6 assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder.
7 Any defense not raised in the answer is deemed waived.

8 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**
9 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
10 true and admitted and the Superintendent may take whatever action is appropriate, including
11 suspension, revocation, denial of Respondents' license or affirming an order to Cease and Desist and
12 imposition of a civil penalty or restitution to any injured party.

13 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial
14 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
15 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
16 Arizona 85007 and to Assistant Attorney General Erin O. Gallagher, Consumer Protection &
17 Advocacy Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

18 **Persons with disabilities may request reasonable accommodations such as interpreters,**
19 **alternative format or assistance with physical accessibility.** Requests for accommodations must
20 be made as early as possible to allow time to arrange the accommodations. If accommodations are
21 required, call the Office of Administrative Hearings at (602) 542-9826.

22 COMPLAINT

23 1. Respondent D&R Financial Group, LLC ("D&R") is an Arizona limited liability
24 company, authorized to transact business in Arizona as a mortgage broker, license number
25 MB 0908484, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of D&R's business is that
26 of making, negotiating, or offering to make or negotiate a loans secured by Arizona real property

1 within the meaning of A.R.S. § 6-901(6).

2 2. Respondent Michael D. Robson ("Mr. Robson") is the Managing Member and Owner of
3 D&R. Mr. Robson is authorized to transact business in Arizona as a mortgage broker within the
4 meaning of A.R.S. § 6-903(E).

5 3. A March 27, 2007 through November 27, 2007 examination of D&R, conducted by the
6 Department, revealed that D&R and Mr. Robson:

7 a. Acted as mortgage broker while not licensed and engaged in unlicensed activity by
8 making, negotiating, or offering to make or negotiate several mortgage loans; and
9 failed to obtain a branch office license from the Superintendent, and designate a
10 person from each branch office to oversee the operations of that office, specifically:

11 i. Respondents provided a loan log that documents the first forty two (42) loans
12 were originated prior to licensing on August 10, 2006. Respondents provided
13 three (3) loan logs for this examination. The initial loan log contained errors
14 and omissions. After delivery of the initial loan log, Respondents re-worked
15 the entire point system (Calyx Point software), because it was not correct the
16 first time. Respondents have been storing all loan files electronically (without
17 the Superintendent's approval), with the hard-copy files being destroyed
18 shortly thereafter to preserve space in the office. The original files no longer
19 exist, but the Respondents have provided a letter stating the second loan log is
20 now accurate;

21 ii. On March 19, 2007, examiners from the Department investigated an
22 unlicensed location at 320 E. McDowell Road, Ste. 222, Phoenix, AZ. After
23 the examiners pointed out that a photocopy of the Respondents' principal
24 place of business license was found lying on the receptionist's desk, the
25 branch manager responded that she had taken two (2) loan applications (the
26 names of the borrowers were not provided). The Respondents' employee

1 record list reflects that branch manager as being employed on April 16, 2007.

2 The Respondents do not have a licensed branch at this location;

3 iii. On March 19, 2007, examiners from the Department investigated an
4 unlicensed location at 77 E. Weldon Avenue, Ste. 150, Phoenix, AZ.
5 Examiners observed and took a picture of a photocopy of a license on the wall
6 for D&R Financial Group that showed an address of 7201 E. Camelback
7 Road, Ste. 375, Scottsdale, AZ. On March 7, 2007, the Respondents
8 submitted a branch application for this location. The branch license request
9 for this location has since been withdrawn by the Respondents. The
10 Respondents' employee record list reflects the branch manager as being
11 employed on March 6, 2007 and April 10, 2007. After a discussion with the
12 branch manager, examiners removed the following files from this unlicensed
13 location:

- 14 1. 3716 W. Loma Lane, Phoenix, AZ 85051;
- 15 2. 658 W. 1st Street, Mesa, AZ 85201;
- 16 3. 7265 W. State Avenue, Glendale, AZ 85303;
- 17 4. 16248 N. 28th Street, Phoenix, AZ 85032;
- 18 5. 1559 W. Crescent Avenue, Mesa, AZ 85202;
- 19 6. 10543 Wamelia Avenue, Avondale, AZ 85323 (2-28-07);
- 20 7. 1257 E. Fountain Street, Mesa, AZ 85203 (2-6-07); and
- 21 8. 8128 W. Earl Drive, Phoenix, AZ 85033 (3-15-07);

22 On March 30, 2007, the Department was notified that a title company was
23 receiving business from the 77 E. Weldon Avenue, Ste. 150, Phoenix, AZ
24 location. This office location was representing itself as D&R Financial
25 Group, LLC, and was trying to do business as such. On April 23, 2007, the
26 Respondents submitted a change of address request for its branch at 914 E.

1 Camelback Rd. Phoenix, AZ, to change its address to: 77 E. Weldon, Ste. 150,
2 Phoenix, AZ. The Respondents do not have a licensed branch at 77 E.
3 Weldon, Ste. 150, Phoenix, AZ;

- 4 iv. On March 20, 2007, examiners from the Department investigated an
5 unlicensed location at 4231 W. Thomas Road, Ste. 100, Phoenix, AZ. Upon
6 entering the office, examiners observed a photocopy of a license certificate of
7 D&R Financial Group, LLC indicating license number MB-0908484 with an
8 address of 7201 E. Camelback Road, Ste. 375, Scottsdale, AZ. The copy of
9 the license certificate was displayed on the eastern-most wall of the lobby.
10 The branch manager and a loan processor greeted the examiners. They stated
11 that this location was an office of D&R Financial Group and acknowledged
12 the license on the wall. The loan processor stated twice that there were sixty
13 (60) loan officers working in the back of this office building's space. The
14 examiners then presented a refinance loan scenario to the branch manager and
15 the loan processor, referring to a \$200,000.00 fifteen year term amortizing
16 loan secured by a home appraised at \$250,000.00 on a single family dwelling
17 located in Arizona. The loan processor entered some information into the
18 computer concerning the proposed refinance while seated at the branch
19 manager's computer. The examiners then advised the branch manager and the
20 loan processor that they were short on time and needed to go back to work.
21 The examiners requested an application to complete later and a business card
22 with a phone number, to call to set an appointment to return to discuss the
23 refinance loan. The examiners received a blank application form no. 1003,
24 Good Faith Estimate form and Truth in Lending form. D&R Financial Group,
25 LLC, 7201 E. Camelback Road, Ste. 375, Scottsdale, AZ 85251, was printed
26 on the forms. The branch manager provided a business card reflecting D&R

1 Financial Group, LLC and license number MB-0908484. The Respondents do
2 not have a licensed branch at 4231 W. Thomas Road, Ste. 100, Phoenix, AZ;

3 v. On June 1, 2006, the Respondents ordered an appraisal from 7201 E.
4 Camelback Rd. #375, Scottsdale, AZ 85251, for a property located at 8137 W.
5 Tuckey Lane, Glendale, AZ 85303, which listed the Respondents as the
6 lender. The Respondents have held out to the public that mortgage loans are
7 made or negotiated at this location prior to August 10, 2006, when the
8 Respondents were issued a mortgage broker's license;

9 vi. On July 6, 2006, the Respondents ordered an appraisal, from 7201 E.
10 Camelback Rd. #375, Scottsdale, AZ 85251, for a property located at 16203
11 E. Powderhorn Drive, Fountain Hills, AZ, which listed the Respondents as the
12 lender. On July 20, 2006, the Respondents originated and negotiated two (2)
13 loans (1st and 2nd mortgages), to purchase an Arizona property located at
14 16203 E. Powderhorn Drive, Fountain Hills, AZ. On July 26, 2006, the
15 Respondents obtained an approval for these loans from a correspondent
16 lender, reflecting the Respondents as its client. On October 10, 2006, the
17 loans funded and the Respondents were compensated \$21,180.00, from the
18 funding of these two (2) mortgage loans. The Respondents have held out to
19 the public that mortgage loans are made or negotiated, before licensing on
20 August 10, 2006;

21 vii. On July 13, 2006, the Respondents ordered an appraisal from 7201 E.
22 Camelback Rd. #375, Scottsdale, AZ 85251, for a property located at 2715 W.
23 Tuckey Lane, Phoenix, AZ, which listed the Respondents as the lender. The
24 Respondents negotiated and funded two (2) loans (1st and 2nd mortgages) on
25 September 22, 2006. The Respondents were compensated \$3,155.00. The
26 Respondents' final loan application (FNMA form 1003) reflected their

1 address as 7201 E. Camelback Road, Ste. 375, Vallecito, CA 95251. The
2 Respondents have held out to the public that mortgage loans are made or
3 negotiated at the Camelback Road location, before licensing on August 10,
4 2006. Respondents also do not have a licensed branch located in Vallecito,
5 CA;

6 viii. On July 13, 2006, the Respondents ordered an appraisal, from 7201 E.
7 Camelback Rd. #375, Scottsdale, AZ 85251, for a property located at 2721 W.
8 Tuckey Lane, Phoenix, AZ, which listed the Respondents as the lender. The
9 Respondents negotiated and funded two (2) loans (1st and 2nd mortgages) on
10 September 21, 2006. The Respondents were compensated \$3,155.00. The
11 Respondents' final loan application (FNMA form 1003) reflected its address
12 as 7201 E. Camelback Road, Ste. 375, Vallecito, CA 95251. The
13 Respondents have held out to the public that mortgage loans are made or
14 negotiated at the Camelback Road location, before licensing on August 10,
15 2006. The Respondents also do not have a licensed branch located in
16 Vallecito, CA;

17 ix. On July 13, 2006, a mortgage loan application was accepted by Respondents
18 for the purchase of an owner occupied property located at 4926 E. Culver
19 Street, No. 2, Phoenix, AZ 85008. On August 3, 2006, the Respondents
20 ordered an appraisal from unlicensed location at 914 E. Camelback Road,
21 Phoenix, AZ 85014, for a property at 4926 E. Culver Street, No. 2, Phoenix,
22 AZ 85008, which listed the Respondents as the lender. The Respondents
23 funded the loan on September 11, 2006. The Respondents were compensated
24 \$3,468.95. The Respondents' address as reflected on the HUD-1 settlement
25 statement was 225 Union Blvd. Ste. 400, Lakewood, CO 80228. The
26 Respondents have originated a mortgage loan prior to being licensed, on

1 August 31, 2006. The Respondents have held out to the public that mortgage
2 loans are made or negotiated at a Lakewood, CO location that is not licensed
3 by this Department; and

- 4 x. The Respondents originated, brokered and funded a mortgage transaction on a
5 property at 6847 S. 27th Place, Phoenix, AZ 85042. The Respondents
6 accepted compensation, payable to the Respondents at 101565 N. 114th Street,
7 Ste. 109, Scottsdale, AZ on January 31, 2007. The Respondents do not have a
8 licensed branch at 101565 N. 114th Street, Ste. 109, Scottsdale, AZ;

9 b. Transferred or assigned their mortgage broker license, specifically:

- 10 i. Respondents were issued their mortgage broker license on August 10, 2006.
11 At the commencement of this examination on March 27, 2007, Respondents
12 had one (1) principal place of business and seventeen (17) branch locations.
13 In March of 2007, Respondents submitted ten (10) additional applications for
14 branch licenses. At the time of examination, the following branch locations
15 were licensed:

- 16 1. 914 E. Camelback Road, Ste. 3, Phoenix, AZ 85014 (branch #1);
- 17 2. 2625 E. Greenway Parkway, Ste. 202, Phoenix, AZ 85032 (branch
18 #2);
- 19 3. 2401 W. Glendale Avenue, Ste. 110, Phoenix, AZ 85021 (branch #3);
- 20 4. 7141 N. 51st Avenue, Ste. F-1, Glendale, AZ 85303 (branch #4);
- 21 5. 2020 W. Indian School Road, Ste. B-31, Phoenix, AZ 85017 (branch
22 #5);
- 23 6. 9386 W. Van Buren Avenue, Ste. B, Tolleson, AZ 85353 (branch
24 #6);
- 25 7. 2033 E. Warner Road, Ste. 105, Tempe, AZ 85284 (branch #7);
- 26 8. 4560 N. 19th Avenue, Phoenix, AZ 85015 (branch #8);

9. 300 W. Osborn Road, Ste. 110, Phoenix, AZ 85013 (branch #9);
10. 4029 N. 31st Avenue, Phoenix, AZ 85017 (branch #10);
11. 5110 N. 44th Street, Ste. L200, Phoenix, AZ 85018 (branch #11);
12. 3150 N. 24th Street, Ste. D100, Phoenix, AZ 85016 (branch #12);
13. 6610 N. 47th Avenue, Ste. 13, Glendale, AZ 85301 (branch #13);
14. 202 E. McDowell Road, Ste. 200, Phoenix, AZ 85004 (branch #14);
15. 300 W. Clarendon Avenue, Ste. 255, Phoenix, AZ 85013 (branch #15);
16. 4260 N. 19th Avenue, Phoenix, AZ 85015 (branch #16); and
17. 1202 E. Maryland Avenue, Ste. 1H, Phoenix, AZ 85014;

ii. In March, 2006, five (5) months prior to licensing, the Respondents hired a recruiter, to recruit and locate branch managers through mail, fax, personal or verbal introductions. The recruiter had a thirteen (13) year career in marketing, advertising and sales. D&R Financial Group was the first mortgage company that the recruiter has worked for. The Respondents developed a program/package referred to as "Branch in a Box". Solicitation letters to prospective branch managers revealed the following:

1. Branch in a Box was used to inform prospective branch managers why the Respondents are by far the best alternative in mortgage branch ownership;
2. The Respondents offered advisement and guidance in all required steps to open your own mortgage branch;
3. Respondents also offered, without cost, advisement and guidance in structuring of the business (such as an LLC);
4. The Respondents offered, without cost, the use of a commercial realtor to help search and visit the location of your new branch.
5. Negotiate a lease;

1 6. Provide a list of contacts for opening the office: utilities, internet and
2 phone, leasing a copier/scanner/fax and selecting furniture (rent or buy); and

3 7. The program/package informs that D&R is the only mortgage banker
4 (although Respondents are licensed as a mortgage broker) advised by
5 executives from State Banking, the FBI, Mortgage Banking, etc.;

6 iii. The recruiter introduced 14 of the 17 Branch Managers to the Respondents
7 through this program. Respondents' form, Branch Policy or Branch
8 Management Program (branch owner requirements & responsibility list),
9 quoting in part, states as follows:

10 1. Branch Owners are responsible for all operating expenses;

11 2. Branch Managers need to have a registered LLC in order to operate as a
12 D&R branch. D&R's executive team could assist on this process but
13 expenses (usually less than \$100) are responsibility of the Branch Manager;

14 3. Branch Licensing expenses (amount varies by state but usually are a flat
15 one-time fee around \$500 for the license plus a pro-rated yearly fee paid to the
16 state) are the responsibility of the branch owner;

17 4. Branch manager is responsible for all business operating expenses
18 including but not limited to location lease, utilities, communication, shredder,
19 etc. These will be paid from the branch's unique bank account set-up for this;

20 5. Branch manager needs to set-up its own account to allow his/her loan
21 officers to pull credit. D&R Corporate can provide the contact information of
22 the three companies it currently uses;

23 6. If certain network printing functions within Calyx Point are desired, Branch
24 Manager needs to cover the required licensing fees; and

25 7. Branch Manager will be held responsible for the following charges to D&R
26 Financial Group that is incurred while servicing loans that he/she or his/her

branch as a whole generates: Recapture fees, Buy-backs and Business Cards;

iv. "D&R Corporate will have an individual bank account for Branch Manager's branch. This account will be used to reimburse Branch manager's LLC for the lease plus pay all branches' expenses (i.e. utilities, phones, advertising, payroll, etc.) After these expenses are paid, Branch Manager will be paid as a W2 employee the remaining balance on the account or the request payroll amount. This request needs to be sent to payroll@xxxxxxxxxxx.com during the week prior to payroll using the required Excel form and scanned copies of the invoices. Managing expenses this way has the advantage of paying them in a pre-tax scenario;"

v. The expenses listed in the above description are all expenses that should be paid by the Respondents, subject to reimbursement from the D&R Corporate account;

vi. Licensee form, 100% Branch Manager Addendum, quoting in part, states as follows: Branch Managers are not taxed W2 until Net Profit for the Branch exceeds all expenses including any commissions due to loan officers and or Processors. **FUTHERMORE, to protect the integrity of your employees and the D&R name, 50% of the office lease and any salaried employees will remain in the Branch Office Account. Branch profits are automatically withheld until a written notice (can be in email format) is received from the branch manager by D&R's payroll department. Branch profits exceeding 50% of office lease plus any salaried employees and after loan officers have been paid may be distributed every Friday. Next day pay is a \$99 fee if branch profits are distributed on days other than Friday pay dates;**

vii. The Respondents have not assumed responsibility or control for its branch

1 offices. The following information was taken from the Respondents'
2 employment forms, also referenced above: (Branch Manager Agreements,
3 Branch Policy or Branch Management Program-branch owner requirements &
4 responsibility list and 100% Branch Manager Addendum). The subparagraphs
5 below demonstrate an assignment or transfer of the Respondents' license. Not
6 all of the Branch Manager files contain these specific forms. Interviews with
7 the Branch Managers confirmed they were aware of the information. The
8 interviews reflected an understanding by the Branch Managers that they were
9 responsible (as the documents above detail), for all income and expenses for
10 the branch and the net income belonged to the Branch Owner/Manager. The
11 branch would then pay the Respondents a fixed monthly fee of \$2,500.00 per
12 branch or \$599.00 per file, for every loan closed;

13 viii. The Respondents instructed the future Branch Manager to get a branch
14 location, for the following branches: #3, #4, #5, #6, #7, #8, #9, #10, #13, #15
15 and #17;

16 ix. The Respondents offered/provided a commercial realtor to help find a location
17 for some new branches and to negotiate the lease. This service was used for
18 branches #4, #5 and #6;

19 x. The Respondents informed the future Branch Manager that they would be
20 responsible for all operating expenses, for the following branches: #3, #4, #5,
21 #7, #8, #9, #10, #13, #15 and #17. A Branch Manager/Owner-signed
22 document reflecting the Branch Owners' responsibilities for all operating
23 expenses was located for the following branches: #3, #4 and #7;

24 xi. The Respondents had the Branch Managers negotiate and sign the leases for
25 the following branches: #3, #4, #5, #6, #7, #9, #10, #13 and #17. The
26 Respondents' branch #1 has a lease signed by the Respondents. All sixteen

1 (16) other branch leases were signed by Branch Managers of the Respondents.
2 Three (3) of the leases, branches #11, #12 and #13, included a DBA using the
3 Respondents' name. Two of the leases, branches #12 and #14, were for a
4 term of month-to-month, yet the Respondents did not assume responsibility by
5 putting their name on the lease;

6 xii. The Respondents have provided a rent expense printout from its records. The
7 Respondents have documented they have paid 46% (52 of 114 payments) of
8 all branch lease payments, for their seventeen (17) branches (not including its
9 corporate address) from licensing origination to surrender of branch license.
10 Respondents should have paid 100% of all branch lease payments;

11 xiii. The Respondents did not assume any leases on equipment for any location;

12 xiv. The Respondents instructed the Branch Managers to open a registered LLC in
13 order to operate as a branch for the following branches: #3, #4, #5, #7, #10,
14 #13 and #17;

15 xv. The Respondents had the Branch Manager pay for the Mortgage Broker
16 Branch License fee, for the following branches: #4, # 5, #6, #7, #8, #9, #10,
17 #11, #12, #13, #14, #15, #16 and #17;

18 xvi. The Respondents have all Branch Managers open an account with Advantage
19 Plus Credit Reporting, Inc. A branch manager personal guaranty was
20 completed and forwarded to Advantage Plus. The Branch Manager's personal
21 credit card was charged for all credit reports ordered from the branch location.
22 Personnel files contained this authorization for the following branches: #3, #4,
23 #5, #6, #7, #9 and #10;

24 xvii. All Branch Managers hired their own staff and loan officers without prior
25 approval from Respondents. The Branch Managers negotiated the income
26 commission split with their loan officers. Typically, income from a loan

1 officer-originated loan was split 70%-30 % or 60%-40% with the Branch
2 Manager (example: loan officer received 70% and branch manager received
3 30%). The actual hiring took place at the branch location. The paperwork was
4 then processed through the corporate human resources department;

5 xviii. The Respondents retained a per file fee of \$599.00 or a per branch fee of
6 \$2,500.00, however, all expenses were paid by the branch manager. Thus, the
7 per file fee or per branch fee was not used for branch expenses, it was used for
8 use of Respondents' license;

9 xix. The Respondents did not have a key to access the branch offices for the
10 following branches: #4, #5, #6, #7, #8, #10, #13, #15 and #17. The branch
11 manager for branch #7 was informed that the Respondents wanted a key. The
12 Respondents stated they had to have a key, but any key was fine, it didn't
13 have to work the door. The branch manager for branch #7 did send in a key
14 that did not work for the office door. The branch manager for branch #6 was
15 informed that the Respondents wanted a key. The branch manager for branch
16 #6 made a copy for Respondents, who never came to pick up the key. On
17 September 20, 2007, the branch manager for branch #6 informed the examiner
18 he had the only key to the office and would be out of the office that day.

19 Also on September 20, 2007, the Respondents' compliance officer called
20 to inform the Department that they would be surrendering 2 more licenses: the
21 Mesa AZ location at 931 E. Southern Avenue (originally branch #3, which
22 was transferred from that closure) and the Tolleson, AZ location at 9386 W.
23 Van Buren, (branch #6). They were picking up the licenses and closing the
24 offices that day. On September 24, 2007, the compliance officer called back
25 to say he had the Mesa, AZ office license, but could not get the Tolleson, AZ
26 license because he could not get into the office. On September 25, 2007, the

1 Respondents were able to obtain access and retrieve the Tolleson, AZ license;
2 xx. The Respondents provided sub-leases for sixteen (16) of the seventeen (17)
3 branch locations. The sub-lease reflected that the Respondents would pay rent
4 on a month-to-month basis, with a 30-day written notice for cancellation.
5 Three (3) of the sub-leases were signed prior to the original lease.
6 Documentation could not be provided which shows the Respondents ever
7 complied with the terms of these same sub-leases;
8 xxi. In February of 2007, the Respondents' owners, Mr. Robson and Joseph
9 Dufresne ("Mr. Dufresne"), met with a potential employee. Mr. Robson and
10 Mr. Dufresne wanted the potential employee to run an Elite Branch for the
11 Respondents. Quoting in part, an Elite branch is defined as: 1.) D&R
12 Corporate pays ALL expenses (lease, processor, utilities, etc). 2.) The branch
13 is required to charge \$1,500.00 in junk fees on each file. The Branch manager
14 is responsible to train, motivate and close loans, nothing else. 3.) "500 FiKo
15 and 620 FiKo product leads given to all loan officers, daily." You can do as
16 many per day as you want, with as many loan officers as you have. 4.)
17 Manager makes 100% split on all files." At the direction of the Respondents,
18 the potential employee started negotiating a lease with Vision Offices, a
19 property management company. On April 8, 2007, the potential employee
20 started employment with the Respondents as an Elite Branch Manager. At
21 that time, the Elite Branch Manager had two (2) loans that he had brought
22 with him and the process began. (The Respondents reflect the Elite Branch
23 Manager's hire date as May 3, 2007, and the termination date as May 10,
24 2007.) On April 19, 2007, during this process, the Respondents issued a
25 check, No. 282 for \$5,751.02, for the payment of the Elite Branch Manager's
26 present lease payment with Vision Offices. The payment reassured the Elite

1 Branch Manager. He then contracted for the new office to be painted and for
2 the lease to be drawn up. The new lease reflected the Respondents as the
3 lessee. Mr. Robson then informed the Elite Branch Manager that they would
4 provide financials to Vision Offices and sign on the lease. However, the
5 Respondents would be solely responsible for the lease after ninety (90) days,
6 until then, both Respondents and the Elite Branch manger would be on the
7 lease together. The new lease was executed by the Elite Branch Manager on
8 May 3, 2007. The Elite Branch Manager received a check from the
9 Respondents for the May 2007 lease payment, but prior to cashing it, the
10 Respondents stopped payment on the check. The Respondents never did
11 supply the financials nor did they sign the lease. Shortly thereafter, the Elite
12 Branch Manager's employment was terminated and he has since been
13 responsible for the lease;

14 c. Failed to use their license number, as issued on their principal place of business
15 license, within the text of all regulated advertising or business solicitations in
16 Arizona, specifically:

17 i. The Respondents' advertising file failed to include the principal place of
18 business license number on the "First Time Homebuyers/Problems with
19 Credit" advertisement;

20 d. Failed to conduct the minimum elements of reasonable employee investigations
21 before hiring employees, specifically:

22 i. Failed to obtain a completed "I9" (Employment Eligibility Verification Form)
23 before hiring four (4) employees, and two (2) I9 forms were not dated;

24 ii. Failed to obtain Immigration Reform and Control Act documents before
25 hiring three (3) employees;

26 iii. Failed to obtain a completed and signed employment application for four (4)

- 1 employees;
- 2 iv. Failed to obtain a signed statement attesting to all of an applicant's felony
- 3 convictions, including information regarding each conviction, for four (4)
- 4 employees;
- 5 v. Failed to consult with the applicant's most recent or next most recent
- 6 employer for eleven (11) employees;
- 7 vi. Failed to complete the applicant's most recent or next most recent employer
- 8 information for twelve (12) employees;
- 9 vii. Failed to inquire regarding an applicant's qualifications and competence for
- 10 the position for twenty two (22) employees;
- 11 viii. Failed to obtain a current credit report from a credit reporting agency for at
- 12 least two (2) employees;
- 13 ix. Failed to conduct further investigation of eleven (11) employees with
- 14 derogatory credit reports;
- 15 x. Failed to maintain a concurrent employee agreement for at least one (1)
- 16 employee;
- 17 xi. Failed to maintain a personnel file for at least one (1) employee;
- 18 xii. Failed to provide the employee's name on the employee list on at least one(1)
- 19 employee; and
- 20 xiii. Failed to provide correct employment dates for at least twenty-two (22)
- 21 employees;
- 22 e. Contracted with or paid compensation to unlicensed, independent contractors,
- 23 specifically:
- 24 i. Respondents paid compensation totaling \$67,165.75 to fourteen (14)
- 25 unlicensed independent contractors from February 1, 2007 through September
- 26 17, 2007;

1 f. Failed to provide the Superintendent advanced written notice of their intent to
2 maintain various accounting and loan records in a computer format, specifically:

- 3 i. The Respondents have been imaging loan files from the inception of the
4 business. After the files were imaged, the original file was destroyed.
5 Numerous documents are missing from the imaged files;
- 6 ii. After the commencement of this examination, the Respondents provided a
7 written request to maintain records in a computer format;
- 8 iii. The Respondents have imaged selected documents and destroyed the
9 remaining portions of the transaction. Because of this practice, on April 3,
10 2007, the Respondents were requested to stop imaging files and to retain all
11 future closed loans. On April 20, 2007, Mr. Robson signed a letter of
12 assurance regarding the records retention and was granted approval to
13 maintain records via computer or mechanical record keeping systems;
- 14 iv. At the exit interview for this examination, a copy of a closed file was
15 requested from the Respondents to verify the completeness of the
16 Respondents' corrected imaging practice. The file was found to be missing
17 the following documents, which were present in the initially received copy
18 package:

- 19 1. Initial Truth in Lending disclosure (signed and dated May 4, 2007);
20 2. Three (3) years of 1040 tax returns (2004, 2005 & 2006); and
21 3. The Servicing Disclosure Statement was signed May 4, 2007, but blank in
22 the initial file. In the imaged file copy or second copy package, the disclosure
23 was completed by hand, giving the appearance of a correctly completed form;

24 g. Failed to maintain correct and complete records, specifically:

- 25 i. The Respondents have failed to maintain a list of all executed loan
26

- 1 applications. The Respondents have failed to maintain a file, with all
2 documents, for each application for a mortgage loan, and have destroyed
3 documents from some files;
- 4 ii. The Respondents have failed to maintain copies of bank account activity
5 source documents; and
- 6 iii. Two (2) initial deposits dated July 28, 2006 for \$2,900.00 and August 4, 2006
7 for \$3,090.00, have not been documented and Respondents cannot explain the
8 deposits;
- 9 h. Failed to adequately reconcile and update their records on a monthly basis;
- 10 i. Failed to maintain a complete loan application list, specifically:
- 11 i. The Respondents have supplied three (3) different loan logs for examination.
12 The initial log was inaccurate and was missing loan applications. The second
13 loan log was updated to reflect accurate information and was provided with a
14 letter of explanation on how the log was repaired. The third and most recently
15 received loan log did not incorporate any of the previously supplied
16 information nor did it include the original loans; and
- 17 ii. The Respondents' list of all executed loan applications failed to include
18 fourteen (14) loans. The following loans were not on the loan log:
- 19 1. Purchase of 37212 N. 26th Street, Cave Creek, AZ 85331;
 - 20 2. Purchase of 2601 W. Park Street, Phoenix, AZ 85041;
 - 21 3. Purchase of 412 E. Milada Drive, Phoenix, AZ 85042;
 - 22 4. Purchase of 7126 N. 2nd Street, Phoenix, AZ 85020;
 - 23 5. Purchase of 404 E. Milada Drive, Phoenix, AZ 85042;
 - 24 6. Refinance of 404 E. Milada Drive, Phoenix, AZ 85042;
 - 25 7. 3716 W. Loma Lane, Phoenix, AZ 85051;
 - 26 8. 658 W. 1st Street, Mesa, AZ 85201;

9. 7265 W. State Avenue, Glendale, AZ 85303;
10. 16248 N. 28th Street, Phoenix, AZ 85032;
11. 1559 W. Crescent Avenue, Mesa, AZ 85202;
12. 10543 Wamelia Avenue, Avondale, AZ 85323;
13. 1257 E. Fountain Street, Mesa, AZ 85203; and
14. 8128 W. Earl Drive, Phoenix, AZ 85933;

j. Failed to maintain correct and complete originals or copies of loan transactions, specifically:

- i. The Respondents have failed to maintain at least two (2) loan applications;
- ii. The Respondents have failed to maintain at least thirteen (13) fee agreements;
- iii. The Respondents have failed to maintain at least sixteen (16) contract agreements;
- iv. The Respondents have failed to maintain at least one (1) set of escrow instructions;
- v. The Respondents have failed to maintain at least three (3) assignments of beneficial interest;
- vi. The Respondents have failed to maintain at least ten (10) documents showing compliance with the Consumer Credit Protection Act and RESPA, including five (5) sets of initial disclosures, four (4) initial Good Faith Estimates, and one (1) initial Truth in Lending disclosure;
- vii. The Respondents have failed to maintain at least two (2) deeds of trust;
- viii. The Respondents have failed to maintain at least two (2) sets of closing instructions;
- ix. The Respondents have failed to maintain at least fifteen (15) appraisals; and
- x. The Respondents have imaged loan files without prior approval from the Superintendents from the inception of the business. After the files were

1 imaged, the original files were destroyed. Numerous documents are missing
2 from the imaged files;

3 k. Failed to use a statutorily correct written fee agreement, signed by all parties, when
4 accepting advance fees and/or documents in connection with mortgage loan
5 applications;

6 l. Allowed borrowers to sign regulated documents containing blank spaces, specifically:

7 i. At least twenty eight (28) Truth in Lending disclosures were signed in blank;

8 ii. At least six (6) servicing transfer disclosures were signed in blank;

9 iii. At least two (2) Borrower Signature Authorizations were signed in blank;

10 iv. At least two (2) Borrower's Certification and Authorizations were signed in
11 blank;

12 v. At least two (2) credit score disclosures were signed in blank; and

13 vi. At least two (2) mortgage loan origination agreements were signed in blank;

14 m. Failed to comply with the disclosure requirements of Title I of the Consumer Credit
15 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement
16 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated
17 under these acts, specifically:

18 i. The servicing transfer disclosure was missing for eight (8) borrowers;

19 ii. The servicing transfer disclosure was incomplete for three (3) borrowers;

20 iii. The Good Faith Estimate was missing for seven (7) borrowers;

21 iv. The Truth in Lending disclosure was missing for three (3) borrowers;

22 v. The Truth in Lending disclosure was incomplete for twenty three (23)
23 borrowers;

24 vi. All initial disclosures were missing from two (2) borrowers' files;

25 vii. The documents failed to disclose fees for six (6) borrowers;

26 viii. The documents under-disclosed fees for two (2) borrowers; and

- ix. The documents did not include the APR calculation of all fees charged for four (4) borrowers;
- n. Misrepresented or concealed an essential or material fact in the course of the mortgage broker business, and engaged in illegal or improper business practices, specifically:
- i. Respondents provided sixteen (16) fully executed sub-leases for its branch office locations where the original lease was not signed by the Respondents. Respondents represented these sub-leases as being true and correct. Interviews with eight (8) branch managers confirmed that each branch manager was unaware of the existence of the sub-lease. The Department presented the eight (8) branch managers with their respective sub-leases. Seven (7) of the branch managers interviewed by the Department denied that the signature on the sublease was theirs, or that of any of their employees. The eighth branch manager claimed the signature on the sublease did not appear to be his partner's signature. The branches in question are branches #3, #4, #7, #8, #9, #10, #13, and #17;
- ii. Respondents originated and negotiated four (4) mortgage loan transactions on two (2) different properties for a borrower. Respondents' loan log reflects the loan officer for all transactions was the same person:
1. Transactions one and two funded by M&T Bank on 3-27-07:
- An owner occupied purchase including a 1st and 2nd mortgage loan totaling \$530,000.00, on a property located at 4323 W. Pearce Rd. Laveen, AZ
2. Transactions three and four funded by Home Capital Funding on 3-30-07:
- An owner occupied purchase including a 1st and 2nd mortgage loan totaling \$425,000.00, on a property located at 2601 W. Park Street, Phoenix, AZ

1 The mortgage file for transactions three (3) and four (4) contained a Fannie
2 Mae loan application (1003), dated March 23, 2007, which failed to disclose
3 transactions one (1) and two (2) on the Schedule of Real Estate Owned.
4 Transactions one (1) and two (2) were closed in the borrower's name and
5 contain a final HUD-1 settlement statement, showing a settlement date of
6 March 27, 2007. The failure to disclose transactions one (1) and two (2)
7 concealed a \$530,000.00 mortgage obligation from the lender on transactions
8 three (3) and four (4);
9

10 iii. Respondents originated and negotiated four (4) mortgage loan transactions on
11 two (2) different properties for a borrower. Respondents' loan log reflects the
12 loan officer for all transactions was the same person:

13 1. Transaction One Funded by Plaza Home Mortgage on 10-31-06:

14 An owner occupied purchase including a 1st and 2nd mortgage loan totaling
15 \$1,400,000.00, on a property located at 7126 N. 2nd Street, Phoenix, AZ

16 2. Transaction Two Funded by New Century Mortgage on 11-28-06:

17 An owner occupied purchase including a 1st and 2nd mortgage loan totaling
18 \$330,000.00, on a property located at 8137 W. Tuckey Lane, Glendale, AZ

19 The mortgage file for transaction one (1) contains a final HUD-1 settlement
20 statement, dated October 31, 2006, reflecting the disbursement of \$290,000.00
21 to Los Cobo Enterprises, a newly opened bank account name of the borrower,
22 allowing cash back to the purchaser of the property. The failure to disclose
23 the disbursement concealed from the lender a \$290,000.00 cash disbursement
24 to the borrower. This failure also concealed the true sales price and value of
25 the property from the lender.
26

1 The mortgage file for transaction two (2) contained a Fannie Mae loan
2 application (1003), dated November 22, 2006, which failed to disclose
3 transaction one (1) on the Schedule of Real Estate Owned. Transaction one
4 (1) was closed in the borrower's name and contains a final HUD-1 settlement
5 statement, showing a settlement date of October 31, 2006. The failure to
6 disclose transaction one (1) concealed from the lender a \$1,400,000.00
7 mortgage obligation.

8
9 The mortgage file for transaction two (2) contained a final HUD-1 settlement
10 statement, dated November 28, 2006, reflecting the disbursement of
11 \$80,000.00 to Los Cobo Enterprises, a newly opened bank account name of
12 the borrower, allowing cash back to the purchaser of the property. The failure
13 to disclose to the lender the disbursement concealed an \$80,000.00 cash
14 disbursement to the borrower. This failure also concealed the true sales price
15 and value of the property from the lender;

16 iv. The Respondents originated and negotiated a mortgage loan transaction on
17 three (3) different properties for a borrower. Five (5) loans were originated
18 for the borrower. The Respondents' loan log reflects the loan officer for all
19 transactions was the same person:

20
21 1. Transaction One (1) Funded by American Brokers Conduit on 1-25-07:

22 An owner occupied purchase including a 1st and 2nd mortgage loan totaling
23 \$375,000.00, on a property located at 404 E. Milada Drive, Phoenix, AZ

24 2. Transaction Two (2) Funded by Spectrum Financial Group on 1-31-07:

25 An owner occupied purchase including a 1st mortgage loan totaling
26 \$458,912.00, on a property located at 6847 S. 27th Place, Phoenix, AZ

3. Transaction Three (3) Funded by Greenpoint Mortgage Funding on
3-12-07:

1 An owner occupied refinance including a 1st and 2nd mortgage loan totaling
2 \$451,000.00, on a property located at 404 E. Milada Drive, Phoenix, AZ

3 The mortgage file for transaction two (2) contained a Fannie Mae loan
4 application (1003) dated January 27, 2007, which failed to disclose
5 transaction one (1) on the Schedule of Real Estate Owned. Transaction one
6 (1) was closed in the borrower's name and contains a final HUD-1 settlement
7 statement, showing a settlement date of January 25, 2006. The failure to
8 disclose transaction one (1) concealed from the lender a \$375,000.00
9 mortgage obligation on transaction two (2).

10 The mortgage file for transaction three (3) contained a Fannie Mae loan
11 application (1003), dated March 7, 2007, which failed to disclose transaction
12 two (2) on the Schedule of Real Estate Owned. Transaction two (2) was
13 closed in the borrower's name and contains a final HUD-1 settlement
14 statement, showing a settlement date of January 31, 2007. The failure to
15 disclose transaction two (2) concealed a \$458,912.00 mortgage obligation
16 from the lender on transaction three (3);

- 17
18 v. The Respondents originated and negotiated a mortgage loan transaction on
19 two (2) different properties for a borrower. Two (2) loans were originated for
20 the borrower. The Respondents' loan log reflects the loan officer for all
21 transactions was the same person:

22 1. Transaction One (1) Funded by Mila, Inc. on 9-21-06:

23 An owner occupied purchase including a 1st mortgage loan totaling
24 \$382,500.00, on a property located at 37212 N. 26th Street, Cave Creek, AZ

25 2. Transaction Two (2) Funded by Hamilton Mortgage Company on
26 10-30-06:

An owner occupied refinance including a 1st mortgage loan totaling
\$342,000.00, on a property located at 4143 E. Hallihan Drive, Cave Creek,

1 AZ

2 The mortgage file for transaction two (2) contained a Fannie Mae loan
3 application (1003) dated October 19, 2006, which failed to disclose
4 transaction one (1) on the Schedule of Real Estate Owned. Transaction one
5 (1) was closed in the borrower's name and contains a final HUD-1 settlement
6 statement, showing a settlement date of September 21, 2006. The failure to
7 disclose transaction one (1) concealed from the lender a \$382,500.00
8 mortgage obligation on transaction two (2);

- 9
10 vi. The Respondents originated and negotiated a mortgage loan transaction on
11 four (4) different properties for a borrower. Six (6) loans were originated for
12 the borrower. The Respondents' loan log reflects the loan officers for all
13 transactions were the same two people:

14 1. Transaction One (1) Funded by American Brokers Conduit on 9-14-06:

15 A non-owner occupied refinance including a 1st mortgage loan totaling
16 \$247,000.00, on a property located at 5237 N. 59th Drive, Glendale, AZ
85301

17 2. Transaction Two (2) Funded by American Brokers Conduit on 9-14-06:

18 A non-owner occupied refinance including a 1st mortgage loan totaling
19 \$247,000.00, on a property located at 5229 N. 59th Drive, Glendale, AZ
85301

20 3. Transaction Three (3) Funded by Greenpoint Mortgage Funding, Inc on
9-22-06:

21 A non-owner occupied refinance including a 1st and 2nd mortgage loan
22 totaling \$252,000.00, on a property located at 2715 W. Tuckey Lane,
Phoenix, AZ 85017

23 4. Transaction Four (4) Funded by Greenpoint Mortgage Funding, Inc on
9-22-06:

24 A non-owner occupied refinance including a 1st and 2nd mortgage loan
25 totaling \$252,000.00, on a property located at 2721 W. Tuckey Lane,
Phoenix, AZ 85017

1 The mortgage transaction one (1) contained a Fannie Mae loan application
2 (1003), dated September 9, 2006, which failed to disclose the ownership and
3 existing mortgage obligation on the Schedule of Real Estate Owned for 2715
4 W. Tuckey Lane, Phoenix, AZ and 2721 W. Tuckey Lane, Phoenix, AZ. Both
5 properties were owned since May 26, 2005. Transaction one (1) was closed
6 in the borrower's name and contains a final HUD-1 settlement statement,
7 showing a settlement date of September 14, 2006. The failure to disclose
8 2715 W. Tuckey Lane, Phoenix, AZ concealed from the lender a \$241,000.00
9 mortgage obligation. The failure to disclose 2721 W. Tuckey Lane, Phoenix,
10 AZ concealed from the lender a \$241,000.00 mortgage obligation.
11

12 The mortgage transaction two (2) contained a Fannie Mae loan application
13 (1003), dated September 9, 2006, which failed to disclose the ownership and
14 existing mortgage obligation on the Schedule of Real Estate Owned for 2715
15 W. Tuckey Lane, Phoenix, AZ and 2721 W. Tuckey Lane, Phoenix, AZ. Both
16 properties were owned since May 26, 2005. Transaction two (2) was closed in
17 the borrower's name and contains a final HUD-1 settlement statement,
18 showing a settlement date of September 13, 2006. The failure to disclose 2715
19 W. Tuckey Lane, Phoenix, AZ concealed from the lender a \$241,000.00
20 mortgage obligation. The failure to disclose 2721 W. Tuckey Lane, Phoenix,
21 AZ concealed a \$241,000.00 mortgage obligation from the lender. (This
22 transaction was originated and processed by the Respondents, but it was
23 funded, without a transfer letter, in the name of Delcor Mortgage, Inc.)
24

25 The mortgage file for transaction three (3) contained a Fannie Mae loan
26 application (1003), dated September 20, 2006, which failed to disclose the new

1 mortgage obligation from transactions one (1) and two (2) on the Schedule of
2 Real Estate Owned. Transaction one (1) was closed in the borrower's name
3 and contains a final HUD-1 settlement statement, showing a settlement date of
4 September 14, 2006. The failure to disclose transaction one (1) concealed an
5 additional \$77,000.00 mortgage obligation from the lender. Transaction two
6 (2) was closed in the borrower's name and contains a final HUD-1 settlement
7 statement, showing a settlement date of September 13, 2006. The failure to
8 disclose transaction two (2) concealed from the lender an additional
9 \$77,000.00 mortgage obligation.
10

11 The mortgage file for transaction four (4) contained a Fannie Mae loan
12 application (1003), dated September 20, 2006, which failed to disclose the new
13 mortgage obligations from transactions one (1) and two (2) on the Schedule of
14 Real Estate Owned. Transaction one (1) was closed in the borrower's name
15 and contains a final HUD-1 settlement statement, showing a settlement date of
16 September 14, 2006. The failure to disclose transaction one (1) concealed
17 from the lender an additional \$77,000.00 mortgage obligation. Transaction
18 two (2) was closed in the borrower's name and contains a final HUD-1
19 settlement statement, showing a settlement date of September 13, 2006. The
20 failure to disclose transaction two (2) concealed from the lender an additional
21 \$77,000.00 mortgage obligation; and
22

- 23 vii. The Respondents originated and negotiated an owner occupied mortgage loan
24 transaction on a property located at 323 N. Laurel Avenue, Phoenix, AZ for a
25 borrower. One loan was originated. The borrower is a self-employed flooring
26 installer. The initial loan documents from the borrower included copies of

1 1040 tax returns from 2004, 2005 and 2006. No documentation was provided
2 for 2007 income. A thirty six (36) month average income from these 1040's
3 was \$1,015.00 per month. A twenty four (24) month average of the most
4 recent 2 years was \$1,111.00 per month. The Respondents used an income of
5 \$3,250.00 per month to qualify the borrower for a stated income, adjustable
6 rate mortgage with a two (2) year prepayment penalty. The Respondents were
7 compensated \$4,796.25 at the funding of this loan. The Respondents have
8 misrepresented this borrower's income. Additionally, prior to imaging the
9 closed loan file for storage the Respondents removed and did not include the
10 three (3) years of 1040s, along with other documents, from its file;

11
12 o. Brent Perkins ("Mr. Perkins"), Respondents' Responsible Individual, failed to be in
13 active management of Respondents' activities as governed by Arizona Revised
14 Statutes Title 6, Chapter 9, Article 1, specifically:

15 i. Mr. Perkins is not knowledgeable about the Respondents' Arizona activities
16 and has not supervised compliance with Arizona statutes and rules as
17 evidenced by the following:

- 18 1. Respondents conducted mortgage broker business at unlicensed branch
19 offices, where photocopies of the corporate license were used;
- 20 2. Respondents transferred or assigned their mortgage broker license,
21 resulting in autonomous branch offices;
- 22 3. Compensation has been paid to unlicensed, independent contractors;
- 23 4. Failure to assume all responsibilities, for instance, employee-owned
24 companies are reimbursed expenses that should have been paid by
25 Respondents directly to the vendors;
- 26

1 5. Respondents have originated and closed fourteen (14) loans that
2 contain misrepresentations and/or conceal material facts;

3 6. Numerous loans were originated prior to licensing; and

4 7. Accurate loan and employee records have not been maintained
5 properly, and some document have been destroyed; and

6
7 p. Failed to maintain and retain all mortgage loan documents, specifically:

8 i. The Respondents have not maintained nor retained all mortgage loan
9 documents. The Respondents have imaged selected documents and destroyed
10 the remaining portions of the transaction;

11 ii. On April 3, 2007 the Respondents were requested to stop imaging files and to
12 retain all future closed loans;

13 iii. On April 20, 2007, the Mr. Robson signed a letter of assurance regarding the
14 records retention and was granted approval to maintain records via computer
15 or mechanical record keeping systems; and

16 iv. At the exit interview for this examination, a copy of a file, already in the
17 possession of the Department, was requested from the Respondents, to verify
18 the completeness of the Respondents' corrected imaging practice. The file
19 was found to be missing the following documents, which were present in the
20 initially received copy package or had been altered:

21 1. Initial Truth in Lending disclosure (signed and dated May 4, 2007);

22 2. Three (3) years of 1040 tax returns (2004, 2005 & 2006); and

23 3. The Servicing Disclosure Statement was signed May 4, 2007, but blank in
24 the initial file. In the imaged file copy or second copy package, the
25 disclosure was completed by hand, giving the appearance of a correctly
26

1 completed form.

2 LAW

3 1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to
4 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,
5 rules, and regulations relating to mortgage brokers.

6 2. By the conduct set forth in the Findings of Fact, D&R and Mr. Robson violated the
7 following:

- 8 a. A.R.S. §§ 6-903(A) and 6-901(6) by acting as a mortgage broker while not licensed,
9 and A.R.S. § 6-904(F) by failing to obtain a branch office license;
- 10 b. A.R.S. § 6-903(O) by transferring or assigning their mortgage broker license;
- 11 c. A.R.S. §§ 6-903(M) and 6-906(D) by failing to use their name and license number, as
12 issued on their principal place of business license, within the text of all regulated
13 advertising or business solicitations;
- 14 d. A.R.S. § 6-903(N) and A.A.C. R20-4-102 by failing to conduct the minimum
15 elements of reasonable employee investigations before hiring employees;
- 16 e. A.R.S. § 6-909(B) and A.A.C. R20-4-102 by contracting with or paying
17 compensation to unlicensed, independent contractors;
- 18 f. A.A.C. R20-4-917(A) by failing to provide the Superintendent advanced written
19 notice of the intent to maintain various accounting and loan records in computer
20 format;
- 21 g. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B) by failing to maintain correct and
22 complete records at Respondents' principal place of business without the approval of
23 the Superintendent;
- 24 h. A.A.C. R20-4-917(C) by failing to adequately reconcile and update their records on a
25 monthly basis;
- 26 i. A.A.C. R20-4-917(B)(1) by failing to maintain a complete loan application list;

- 1 j. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B)(6) by failing to maintain correct and
2 complete originals or copies of loan transactions;
- 3 k. A.R.S. § 6-906(C) by failing to use a statutorily correct written fee agreement, signed
4 by all parties, when accepting advance fees and/or documents in connection with
5 mortgage loan applications;
- 6 l. A.R.S. § 6-909(A) and A.A.C. R20-4-921 by allowing borrowers to sign regulated
7 documents containing blank spaces;
- 8 m. A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e) by failing to comply with the
9 disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C.
10 §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C.
11 §§ 2601 through 2617), and the regulations promulgated under these acts;
- 12 n. A.R.S. § 6-909(L) by misrepresenting or concealing an essential or material fact in
13 the course of the mortgage broker business and A.R.S. § 6-909(N) by engaging in
14 illegal or improper business practices;
- 15 o. A.R.S. § 6-903(E) and A.A.C. R20-4-102 by failing to ensure that the responsible
16 individual maintains a position of active management; and
- 17 p. A.A.C. R20-4-917(D) by failing to maintain and retain all mortgage loan documents.

18 3. The violations of applicable laws, set forth above, constitute grounds to suspend or
19 revoke D&R's and Mr. Robson's mortgage broker license, number MB 0908484, pursuant to A.R.S.
20 § 6-905(A).

21 4. Respondents misrepresented or concealed an essential or material fact in the course of
22 the mortgage broker business by concealing material facts and making misrepresentations to lenders
23 regarding several borrowers, thereby engaging in illegal or improper business practices, which are
24 grounds for suspension or license revocation pursuant to A.R.S. § 6-905(A)(3).

25 5. The violations, set forth above, constitute grounds for the pursuit of any other remedy
26 necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona


1 pursuant to A.R.S. §§ 6-123 and 6-131.

2 6. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes
3 are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation
4 for each day.

5 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
6 above-described violations or other grounds for disciplinary action, the Superintendent may suspend
7 or revoke D&R's and Mr. Robson's mortgage broker license pursuant to A.R.S. § 6-905(A); order
8 any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage
9 brokers in Arizona under A.R.S. §§ 6-123 and 6-131; and impose a civil money penalty pursuant to
10 A.R.S. § 6-132.

11 DATED this 29 day of May, 2008.

12 Felecia A. Rotellini
13 Superintendent of Financial Institutions

14 By 
15 Robert D. Charlton
16 Assistant Superintendent of Financial Institutions

17 ORIGINAL of the foregoing filed this 29th
18 day of May, 2008, in the office of:

19 Felecia A. Rotellini
20 Superintendent of Financial Institutions
21 Arizona Department of Financial Institutions
22 ATTN: Susan L. Longo
23 2910 N. 44th Street, Suite 310
24 Phoenix, AZ 85018

25 COPY mailed/delivered same date to:

26 Hon. Thomas Shedden
Administrative Law Judge
Office of the Administrative Hearings
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Phoenix, AZ 85007

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1275 West Washington
3 Phoenix, AZ 85007

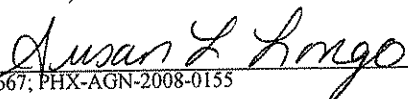
4 Robert D. Charlton, Assistant Superintendent
Brian Naig, Senior Examiner
5 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
6 Phoenix, AZ 85018

7 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

8 Michael D. Robson, Member and Owner
9 D&R Financial Group, LLC
7201 E. Camelback Road, Suite 375
10 Scottsdale, AZ 85251
Respondents

11 John Powers, Esq.
12 Henderson Law Firm, PC
2415 E. Camelback Rd. #1050
13 Phoenix, AZ 85016
Attorneys for Respondents

14 The Henderson Law Firm, Statutory Agent for:
15 D&R Financial Group, LLC
2415 E. Camelback Rd. #1050
16 Phoenix, AZ 85016

17 
159667; PHX-AGN-2008-0155



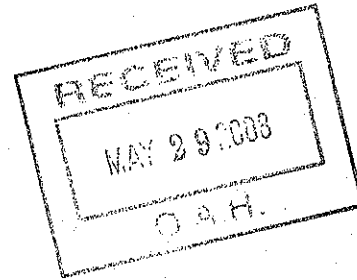
ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

Felecia A. Rotellini
Superintendent of Financial Institutions

Janet Napolitano
Governor

May 29, 2008

Michael D. Robson
Member and Owner
D&R Financial Group, LLC
7201 E. Camelback Road, Suite 375
Scottsdale, AZ 85251



Reference: Examination of License 0908484

Dear Mr. Robson:

Enclosed is the Report of Examination ("Report") of your company. The examination commenced on March 27, 2007 and concluded on November 27, 2007.

As a result of the examination, the Arizona Department of Financial Institutions maintains in the enclosed Report that you have violated or are violating the law(s), rule(s) or order(s) of the Department applicable to you. The specific violations are set forth in the Report. Due to the severity of these violations, the Department is issuing a **Notice of Hearing and Complaint**. The formal Notice of Hearing and Complaint is enclosed. The hearing is scheduled for **July 21, 2008 and July 22, 2008, at 9:00 a.m.** at the Office of Administrative Hearings. Please contact **Assistant Attorney General Erin Gallagher** at **(602) 542-8935** with any questions.

Pursuant to A.R.S. § 6-125, the statutory fee assessed for the examination is \$32,850.00. Enclosed also is an invoice for the examination assessment due and payable within thirty (30) days from the date of this billing. Failure to make timely payment shall result in the addition of a penalty of **\$50.00 per day until paid** (A.R.S. § 6-125.D). Please remit the bottom portion of the invoice with your payment.

Very truly yours,

Robert D. Charlton
Assistant Superintendent

RDC:sll

Enclosures



Arizona Department of Financial Institutions

2910 North 44th Street, Suite 310

Phoenix, AZ 85018

Invoice

May 29, 2008

Michael D. Robson
Member and Owner
D&R Financial Group, LLC
7201 E. Camelback Road, Suite 375
Scottsdale, AZ 85251

Description	Amount
Examination Charge	\$32,850.00

Please return to: Arizona Department of Financial Institutions
Accounting Department
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

Please detach and return with payment.

To:

May 29, 2008

Michael D. Robson
Member and Owner
D&R Financial Group, LLC
7201 E. Camelback Road, Suite 375
Scottsdale, AZ 85251

Payment Due: 06/28/2008
License Type: Mortgage Broker #0908484
Payment for: Exam #0014394
Amount: \$32,850.00

Please return to: Arizona Department of Financial Institutions
Accounting Department
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018